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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 12th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 14 August 1991, at 10 a.m.

Chairman: Mr. JOINET

later: Mrs. BAUTISTA

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The meeting was called to order at 10.20 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION ESTABLISHED UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1991/14, 15, 46 and 51; E/CN.4/Sub.2/1991/NGO/9 and 12; E/CN.4/Sub.2/1990/2; E/CN.4/Sub.2/1989/47, 51 and 55)

1. Mr. IMBRIANO (Minority Rights Group) said that in Somalia thousands of people had been systematically and ruthlessly executed, cities had been completely emptied and destroyed and over 300,000 people had become either internally displaced persons or refugees in neighbouring Ethiopia and Kenya. Twenty years of gross violations had led to a civil war that had devastated Somalia; its infrastructure was destroyed and its economy was in ruins.

2. If nothing were done, the situation would only worsen. At the moment, there was a prospect for change and it was for that reason that his organization brought the plight of Somalia to the attention of the Sub-Commission, coinciding with the release of its own report entitled Somalia: A Nation in Turmoil.

3. Such large-scale displacement had removed both Somalis and ethnic minorities not only from their homes and lands but from any reasonable participation in their Government and their right to development. Somalia had endured massive human rights abuses for more than two decades. The problem of displacement caused by civil war or political persecution had troubled the country for almost as long. Somalia currently faced secession in the north and continuing civil war in the south.

4. The 6 or 7 million ethnic Somalis in Somalia, Ethiopia and Kenya were divided amongst six major clans which were generally organized geographically with sub-clans delicately balanced between clan alliance and regional interest.

5. Perhaps as much as 25 per cent of the entire southern population was in need of food and the malnutrition rate among children was higher still. International aid, particularly food, was in constant jeopardy of being stolen or distributed inequitably along clan lines. Relief agencies must be very resourceful and were obliged to use armed guards for protection. Thousands of guns had been turned in by civilians in the northern region. The northern administration seemed to be stabilizing and food was not the problem there that it was in the south. Unexploded mines and lack of water however were very serious problems that had been made more severe by the influx of returnees from the west and south.

6. All too often excluded from international aid were the uprooted non-Somali Bantu and Gosha peoples who were perhaps the most vulnerable ethnic minorities in the country. At any given moment however the term "vulnerable group" could apply to almost everyone. Neither region was self-sufficient and both remained highly insecure.

7. Neither Western nor Eastern influence had been a stabilizing force. Despite European colonization, Soviet aid and a continuing United States presence, none of those Powers had taken an active role in redressing the problems their intervention had helped to create. The international community, possibly led by the OAU and the United Nations, together with international non-governmental organizations, could lead the efforts to bring stability back to Somalia. Those efforts could include mine-removal and a programme of disarmament alongside programmes for water supply rehabilitation, medical care, and the provision of construction materials and food distribution.

8. His organization considered that relief should be managed at the local level to ensure its distribution to all the regions, ethnic minorities and clans. It commended the efforts of the northern administration to disarm the population there, thus bringing that region closer to stability. It also welcomed the printing of 11 independent newspapers in the Mogadishu area. The recognition of the importance of plurality was an encouraging sign for the promotion of human rights in the country.

9. His organization therefore recommended that: urgent humanitarian assistance be given to the people in Somalia with strong international coordination to ensure equitable distribution; refugees and displaced persons should receive international protection and resources until their voluntary return was assured; physical security should be guaranteed and clan militia should be demobilized and their weapons collected by a neutral agency; a mass education programme in both technical skills and liberal arts should be established; there should be a federal Government that would ensure considerable autonomy for clan and regional interests; and international assistance should be extended by the United Nations to resolve Somalia's territorial disputes with Ethiopia and Kenya.

10. Ms. del ROSARIO-TOJ (International Indian Treaty Council) invited the Sub-Commission's attention to the increasing wave of violations of human rights which had accompanied the restoration of a civilian Government in Guatemala and had recently further escalated since President Serrano assumed power. In June 1991, 36 organizations representing different sectors had addressed an open letter to those involved in the peace negotiations, including the Government and the army, drawing a parallel between the tragic situation of persecution and violence at the beginning of the 1980s and the current situation. The letter had pointed to the sharp contrast between the current peace talks and the reign of terror in the country and had emphasized that the situation was aggravated further by the impunity enjoyed by those responsible for the terror.

11. The process of dialogue and negotiation was continuing and the issues of human rights and the rights and identity of the Indian peoples were to be discussed shortly. That was no reason to stop exercising pressure on the Government or to expect that it would automatically take action. All must insist on an immediate end to violations of human rights in general and to the State policy which made it possible for the repression of the political, democratic, professional, religious, humanitarian and popular sectors, including in particular the indigenous peoples, to continue with impunity.

12. Thousands of people, including children, had been deprived of their rights in different parts of the country. During the current year the army continued to sponsor the so-called volunteer civil defence committees and continued to threaten any who refused to join or who denounced their activities which included detentions, disappearances, summary executions and control of communities.

13. The illegal, discriminatory and unjust practice of forced recruitment, particularly in indigenous and peasant areas, had been extended to other areas of the country. In March, May and June 1991, organizations of widows, displaced persons, peasants, religious and humanitarian groups, and trade union and student bodies had denounced the practice and had organized marches. At the end of July, 80 students had been seized while they were travelling to the University of San Carlos de Guatemala to attend classes while scores of young men from Tecún Uman, San Marcos, had been mistreated in order to force them into the committees. All were being held incommunicado notwithstanding that many were fathers and the sole support of families.

14. The Catholic Church's office for human rights in Guatemala had reported that, during the first half of 1991, two or three summary executions had taken place daily, while the Office of the Procurator for Human Rights had reported on 22 July that, during the same period, it had received 321 complaints of cases involving death squads. Children were a particularly vulnerable group.

15. On the morning of 28 July the national police had invaded the headquarters of the National Coordinating Committee of Guatemalan Widows (CONAVIGUA) and had intimidated those present, and had also taken photographs. The organization had made an urgent appeal for solidarity to the international community. The University Student Association (AEU) had also complained of threats made against their representatives attending the United Nations Commission on Human Rights in March 1991.

16. The Mutual Support Group (GAM), in June 1991, had reported the existence of 125 clandestine cemeteries in the west of the country, while humanitarian organizations had denounced the attempts of paramilitary groups to conceal information which might have provided more proof about those responsible.

17. Resistance communities had been bombed by the air force in clear violation of international humanitarian law, in Ixcán and the Ixil Triangle in Quiché.

18. Against that background, her organization requested that the Sub-Commission should examine in a realistic and consistent way the true situation of the human rights of the indigenous peoples and other groups in Guatemala; that it should urge the ending of repression and the impunity of the guilty as a basic condition for the achievement of peace and true participative democracy; and that it should strongly support the process of dialogue and negotiation.

19. Mr. KOTHARI (Habitat International Coalition) said that numerous Governments throughout the world continued forcibly to evict and uproot persons, families and entire communities from their homes, against

their will. The process was virtually always carried out by the evicting authorities without prior warning, negotiation, compensation, the provision of alternative accommodation and without clear and reasonable justification.

20. The right to safety and security in one's home constituted one of the most fundamental human rights; yet that right was being violated on a daily basis in many countries. In spite of such an obvious and clear infringement of human rights, many actors in the process, including government authorities, property developers, landlords, international financial institutions and others refused to acknowledge that forced evictions were a violation of human rights. In the absence of international action by the United Nations, the increasing prevalence of forced evictions would certainly continue. A document circulated by his organization during the current session (E/CN.4/Sub.2/1991/NGO/9) had cited examples from 18 countries of mass, forced and involuntary evictions which would serve to reveal the magnitude, severity and violence which accompanied such violations. On the basis of available evidence, evictions were an increasing phenomenon and had assumed rampant proportions.

21. Individual Governments were not the sole forces responsible for evictions. The seductively packaged economic prescriptions handed out by the IMF, World Bank and GATT would continue to create conditions which encouraged the turning of a blind eye to the inevitability of evictions. It should be noted that evictions were often referred to as displacement, forced removal, slum clearance, involuntary resettlement; all those terms fell far short of describing the true and inhuman nature of the practice.

22. Forced evictions almost invariably preceded major international events, meetings and celebrations. For example, in preparation for the 1992 commemoration of the landing of Columbus in the Caribbean some 500 years earlier, over 120,000 people had been evicted from their homes and communities in the Dominican Republic. Prior to and following the 1988 summer Olympics in Seoul, over 1 million people had been confronted by demolition squads and had been violently removed from their homes. Unless immediate measures were taken, preparations for the upcoming Conference on the Environment in Rio de Janeiro would probably result in the eviction of slum dwellers, squatters and street children. In December 1990, some 44,000 of Nairobi's poorest citizens had watched helplessly as bulldozers flattened their communities. Those evictions had received no public denunciation by the United Nations Centre for Human Settlements which was based in Nairobi. Between 1983 and 1988 at least 50,000 citizens of Calcutta had been rendered homeless through various evictions while in July 1990 over 300,000 residents of the Maroko community in Lagos had been evicted. Further evictions were planned in the city of Lae in Papua New Guinea, in Madras and Bangkok; in the last-mentioned case the evictions were linked to an attempt by the public authorities to present "good scenery" to delegates from the World Bank and the IMF who were holding their annual meeting there in November 1991. Authorities in Ho Chi Minh City in Viet Nam were reported to intend to "relieve overcrowding" by evicting 150,000 persons.

23. Government authorities inevitably sought to rationalize and, in effect, disguise the eviction process by using such terminology as "beautifying the city", "cleansing the streets", "urban renewal", and ironically in the name of

"progress" and "development". In almost all cases, the people evicted were the most economically, politically and socially disadvantaged and poorest groups in society.

24. Bodies like the Sub-Commission could play a vital preventive role in encouraging Governments to halt evictions. There had already been recognition within the United Nations system that evictions constituted a violation of human rights. The Committee on Economic, Social and Cultural Rights, during its fourth session in early 1990, had stated that housing rights were subject to violation, particularly in the context of forced evictions. The same Committee, late in 1990, had declared the Dominican Republic to be in violation of article 11 of the International Covenant on Economic, Social and Cultural Rights because of that Government's past policies of mass and forced evictions. The Sub-Commission should recognize that mass and forced evictions constituted a gross and systematic violation of human rights, in particular the right to adequate housing, as an effective contribution towards ending that violent and destructive practice.

25. Mr. SACHAR said that he had been deeply shocked at recent remarks made in the course of an interview by Mr. Morris Abram, who had said that the Sub-Commission spent most of its time examining country-specific human rights situations and generating studies and resolutions of marginal utility. He was horrified that a representative of the Government of the United States, which claimed to be working for human rights, should express such views. In his view, such an attitude needed to be repudiated immediately. He wondered therefore whether those remarks were intended to test public opinion or whether they fell into the same category of official insensitivity witnessed the previous year on the occasion of the conversation of the United States Ambassador to Iraq with President Saddam Hussein before Iraq's invasion of Kuwait.

26. There could be nothing but condemnation for Iraq's violation of Kuwait's sovereignty. Following Iraq's forced withdrawal from Kuwait, however, democratic rights continued to be denied to the ordinary citizens of Kuwait. The war had ended but only to bring back the same iniquitous non-democratic rule. Hundreds of persons had been detained without recourse to legal remedy. The only losers from the war had been the people of Kuwait, who were still deprived of their right to the fruits of democracy, and the average person in Iraq who continued to bear the burden resulting from the arrogant posture of the United States which was denying even food and medicine to the children of Iraq. It was painful to note that the Security Council had still not been able to clear the purchase of those essential articles for the people of Iraq although it had not taken the United States and many of its allies much time to remove the sanctions against the racist regime of South Africa, even following the disclosures of the funding by the Government of South Africa of the Inkatha party. The further disturbing statement by the leader of the neo-Nazi Afrikaner racist movement that the Boer uprising had started and his call to the police to rebel against the local authorities of President De Klerk demonstrated that the fight for racial equality and democratization in South Africa must continue and that the international community must remain vigilant against the danger of backsliding.

27. In his view the question of racial discrimination and violations of human rights could not be examined merely with reference to the apparent perpetrators of the crime. Public condemnation was a correct response; but in order to see who were partners in the crime, it was necessary to go behind the scene. For example, before the Iraqi invasion of Kuwait, a very large part of the armaments used by Iraq had been obtained from countries in the West like the United States, Germany and the United Kingdom which were now the loudest in condemning Iraq. One of the greatest horror stories of Iraq was its possession of chemical weapons but it had recently been disclosed by the United Kingdom Department of Trade and Industry that, during 1988, 1989 and 1990, hundreds of thousands of pounds worth of nerve gas and mustard gas components had been exported to Iraq. The question might be asked whether a country which supplied the wherewithal to manufacture nerve gases could absolve itself from violations of human rights.

28. Bread and freedom were two sides of the same coin and deprivation of either must inevitably damage the fabric of the whole. Freedom of the individual obviously could have no meaning so long as the poor did not have their economic conditions improved and while discrimination based on privilege continued to escalate with the passage of time. The problem of poverty was inextricably linked with the denial of human rights. The history of the Soviet Union and Eastern Europe had shown that, when political rights were denied, economic rights would also be denied. For far too long, leaders in those countries had assumed that the denial of political rights was necessary in order to advance the fight for economic rights. The social democrats had always maintained that the fight on the political and economic fronts must be simultaneous. He was therefore concerned that the swing was now going in the other direction with the market economy supplanting the concern of the State for the poor and neglected sectors. In fact the philosophy of the market economy was one of each for himself. Already Eastern Europe was facing the problem of unemployment with no large influx of foreign investment in consumer goods or housing which were the needs of the people.

29. With the end of the cold war, there had been an impression that the money saved on arms would go to provide safe drinking water for the neglected peoples of Africa and Asia. However, no funds were forthcoming despite the affirmation of human rights and statements by Western leaders that a market economy would boost the living standards of the poor and that multinational corporations would transform the economies of Asia and Africa. Such outpourings were mere propaganda.

30. It had been assumed also that the end of the cold war would bring about a reduction in the astronomical expenditure on military hardware by the West. But the Pentagon was still seeking more than $5 billion for some 100 major weapons acquisition programmes. The grandiose and controversial programme of space stations was being encouraged by the provision of $2 billion in the fiscal year 1992, and that expenditure would rise. Meanwhile concerned American citizens lamented the deplorably high cost of medical care and old peoples' homes. Even Americans had pointed out that the huge expenditure on arms was totally useless. The money spent on manufacturing B-11 bombers could legitimately be spent on highways and bridges in the United States.

The poor countries in Asia and Africa would benefit greatly if even 1 per cent of the total military expenditure was spent on providing good roads and decent housing.

31. Another human right being grossly violated was the right to adequate housing. Over 1,000 million persons were inadequately housed, and there had been mass forced evictions of people from their dilapidated homes in order that cities might be beautified or in order to house IMF or World Bank conferences. It was time that the right to adequate housing was accepted as a deeply entrenched human right without which it was impossible for persons to have the right to life and liberty.

32. Mrs. Bautista took the Chair.

33. Ms. WU (Women's International League for Peace and Freedom) appealed to the United Nations to cease applying double standards in regard to violations of the Charter of the United Nations and the implementation of Security Council resolutions. In that regard, her organization once again drew attention to Security Council resolution 384 (1975) calling for the withdrawal of Indonesian forces from East Timor and reaffirming the right of East Timorese people to self-determination.

34. It was estimated that some 60,000 Timorese had been killed in resisting the Indonesian invasion of East Timor in December 1975, and that 100,000 to 200,000 had died in the ensuing conflict between 1974 and 1980. Despite the Draconian controls imposed by Indonesia, the Timorese people continued to resist the occupation. Reliable sources including Amnesty International testified that gross human rights violations continued to occur in East Timor.

35. The Women's International League for Peace and Freedom deplored the Timor Gap Treaty signed between Australia and Indonesia in 1989 for the development of the Timor Sea oil resources, which had ignored the fact that the United Nations still regarded the East Timor question as unresolved. The challenge to that treaty by Portugal at the International Court of Justice had drawn attention anew to the illegality of the Indonesian annexation of East Timor.

36. Her organization supported the call of the Timorese side for a dialogue between the parties concerned, under the auspices of the United Nations. That could be a stage-by-stage process, starting with a cease-fire monitored by a United Nations observer team, followed by talks on some formula of self-determination for the people of East Timor.

37. Whatever political arrangements were agreed could be formalized through a process carried out by the United Nations, as in the case of Namibia and the Western Sahara. The process of dialogue and negotiation was the most effective and just means of resolving political conflicts, as had been demonstrated in those cases. Such an approach would, she was confident, also bring an end to the 16-year-long conflict in East Timor.

38. Mr. EYA-NCHAMA (International Movement for Fraternal Union among Races and Peoples) said that the situation in Sudan continued to cause concern and he requested the authorities of that country to cooperate with the international community in order to guarantee the rights of the citizens. In Liberia the civil war was continuing, despite the efforts of the Governments of the region to secure peace. Charles Taylor and his guerrilla army continued to destabilize the country and were trying to extend the war to neighbouring Sierra Leone. Despite the goodwill of the Government of Mozambique, the RENAMO movement continued to terrorize the population, and he again urged the international community to exercise its influence to bring an end to the massacres in Mozambique.

39. In March 1990 in Madagascar, under pressure from the people, the authorities had decided to allow political pluralism. As a result of meetings between the Council of Christian Churches of Madagascar and opposition parties, a National Council of Live Forces had been established, whose first action had been to propose the convening of a constituent conference to give the country a new constitution. That proposal had been rejected and the opposition then decided to hold peaceful demonstrations in the capital, Atananarivo. The people of Madagascar called for the resignation of the Government since President Ratsiraka no longer represented the will of the majority. On 10 August 1991, the police had killed 14 people who were taking part in a peaceful march for freedom organized by the opposition. Over 220 people had been wounded and a further 5 killed in the western part of the island. His organization urged the international community to put pressure on President Ratsiraka to convene a national constituent conference in which all sectors of the population could take part. It feared that the alternative might well be anarchy and civil war.

40. He noted that Mr. Khalifa had already referred to the thorny problem of the right to intervene in the internal affairs of States on humanitarian grounds. His organization, which belonged to an NGO committee that intended to organize a conference on that subject the following year, believed that the Security Council might be the body to decide on any intervention. But would the Security Council be able to take such a decision with respect to its permanent members? A permanent member of the Council would automatically use his veto to prevent intervention in his country. The conclusion was that the coalition of the five permanent members of the Council would be able to decide on international military action.

41. Africans would recall that the Berlin and Algeciras conferences, convened at the end of the last century and the beginning of the present one, had been held ostensibly for humanitarian reasons. The result had been the carving up of Africa among the European Powers.

42. His organization appealed to the international community to ensure that all States became parties to the International Covenants on Human Rights; that was the only way of preserving peace and collective security. Curiously, many of the great Powers had not adhered to those instruments. It was also strange that many great Powers supported dictators, affording them political, economic, diplomatic and military assistance for many years and then proceeded to launch a campaign against those same dictators, invoking the right to intervene on humanitarian grounds.

43. The many problems of the world could not be solved by force of arms but rather through the promotion of the international instruments relating to human rights.

44. Ms. MAKTABI (International Falcon Movement) quoted from a speech by President Rafsanjani of the Islamic Republic of Iran: "Throughout the world, there are always individuals who can only be suppressed. We must suppress them. An atmosphere of terror must prevail for such unsuitable individuals." That affirmation, published in the official newspaper Ressalat on 3 December 1988 had been confirmed by the terrifying repression occurring within Iran and the increasing terrorism and fundamentalism abroad.

45. As mentioned by the Special Representative of the Commission on Human Rights in paragraph 129 of his report (E/CN.4/1991/35), a former prisoner had reported that he had witnessed the death of a fellow prisoner as the result of an enforced blood transfusion and that he had also witnessed the rape of young women by prison investigators.

46. On 31 December 1989, a decree had been issued in a radio broadcast, according to which a religious judge had five different options as to the way in which a death sentence was carried out, namely, beheading by the sword, stoning, throwing the condemned from a height, bringing a wall down on top of him or burning him alive. Any one of those punishments might be carried out in conjunction with burning.

47. In the first seven months of 1991 there had been 641 officially announced executions or public hangings, which was three times the number for the same period the year before. Many political prisoners were executed on the pretext of having committed ordinary crimes and in many cases they were severely tortured prior to their execution. Political assassinations outside Iran had also increased during the last year. On 23 July the media had reported the disclosure of a document by the People's Mujahidin of Iran revealing that the Iranian Guards Corps stationed in the Bekaa Valley was behind the attempted assassination and the assassination of the Italian and Japanese translators of Salman Rushdie's book.

48. The death of Mr. Kazem Rajavi, the renowned human rights advocate, had been a particular case of political assassination. The Special Representative of the Commission on Human Rights had reported that the police officers conducting the investigation of that murder had now assembled a number of clues making it possible to state that one or more official Iranian services were directly involved in the killing of Mr. Rajavi. Adding insult to injury, the Government of Iran had sued a Swiss journalist for libel in reporting its role in Mr. Rajavi's assassination. It had also attempted to intimidate the Special Representative of the Commission on Human Rights, as well as to spread its press censorship beyond its own borders, thus providing it with greater freedom to carry out more acts of a similar nature. However, the Swiss court had reached a verdict in favour of the journalist, condemning the Iranian regime. Iran had now pressed charges against the prosecutor because he had agreed with the journalist.

49. Women were subjected to appalling treatment in Iran. There were many reports that virgins had been raped before being executed. In paragraph 218 of the Special Representative's report it was stated that: "In the family context it has been reported, inter alia, that a husband, father or brother may kill his wife, daughter or sister when she commits an immoral or unchaste act."

50. On 19 June 1991, Ressalat reported that the President had personally issued a directive on the wearing of the veil. On 23 April 1991 Reuters had reported that 800 women had been arrested in two days in Tehran for the crime of not wearing a veil. Under Iranian law, their punishment was 74 lashes. At the end of July 1991 hundreds of people had rioted in Isfahan in response to attempts by the authorities to enforce the dress code on women. Three hundred people had been detained and no information was available on their fate.

51. Those examples demonstrated the extent to which the norms of the Iranian regime were in contradiction with international standards and the concepts of Islam, whose message was freedom and equality.

52. In a bid to obtain international sanction for what it did in the name of Islam, the Iranian regime planned to hold a seminar, allegedly to study Islam and human rights. The Iranian people were already under intolerable pressure and no free-thinking person or advocate of human rights should be willing to confer legitimacy on the crimes committed by Iran.

53. In April 1991 the European Parliament had adopted an unprecedented resolution condemning the appalling scale of continuing human rights abuses in Iran. Her organization hoped that at its current session the Sub-Commission would adopt a resolution condemning the gross and continuing human rights violations in Iran in the strongest manner possible.

54. Mrs. KSENTINI noted that over the years there had been spectacular progress in the concept of the international protection of human rights, in both standard-setting and in monitoring.

55. The contribution made by the non-governmental organizations to the work of the Sub-Commission had increased tremendously and nowadays no one could contest their right to name the countries against which they had grievances.

56. Many thematic special rapporteurs had been appointed and sectoral working groups set up to complement in a practical manner the multitude of human rights instruments that had come into existence. The World Conference on Human Rights to be held in 1993 might provide an opportunity to coordinate some of those activities and avoid duplication.

57. The machinery for monitoring the observance of human rights was now so refined that even States which had not ratified conventions could not escape the system of international supervision. However, the number of States ratifying the international human rights instruments was steadily increasing as was the number of States which agreed to accept the complaints mechanism. Furthermore, no State now contested the 1503 procedure.

58. That was not to say that matters were entirely satisfactory. The international community continued to be confronted with the denial of two cardinal principles: the right of peoples to self-determination and the principle of non-discrimination. The peoples of South Africa and Palestine were still being denied their rights. One might well ask why the international community had not yet been able to accede to the legitimate demands of those peoples.

59. The reports of the Special Committee on Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories had been submitted to the United Nations since 1968. To them should be added other enlightening reports, including Mr. Wako's reports on summary or arbitrary executions and reports by the ILO, the International Committee of the Red Cross and various non-governmental organizations. All denounced practices such as the imposition of restrictive measures, the confiscation of property, including bank accounts, the demolition of houses, collective punishments, arbitrary arrests and internment, the torture and maltreatment of detainees, and restrictions on travel. Israel was using repression and terror in order to put an end to the intifada. The Fourth Geneva Convention was applicable to the occupied territories, whose population the international community had a duty to protect. The transportation and expulsion of Palestinians constituted a serious violation of article 49 of the Convention. Moreover, the occupation itself was illegal, in so far as the acquisition of territory by force was inadmissible in international law. The recent war in the Gulf had reasserted the sacrosanct nature of that principle. The refusal to allow the Palestinian people to return to its homeland was also a gross violation of article 13 (2) of the Universal Declaration of Human Rights, while the large-scale movement of settlers into the occupied territories was designed to change their demographic composition, leaving the Palestinians to live as refugees.

60. Human rights were also being seriously violated by the Israeli occupation forces in southern Lebanon, through the arbitrary detention of civilians, the destruction of their houses, the confiscation of their property, their expulsion from the occupied zone, and the maltreatment of detainees, particularly in the prison camps, where the International Committee of the Red Cross was unable to perform its duties. The Sub-Commission had a duty to condemn such practices in strong terms and to call upon Israel to put an end to them and to comply with Security Council resolutions 425 (1978) and 509 (1982), which required it to withdraw unconditionally from Lebanese territory.

61. The Palestinian problem was at the heart of the Middle East crisis, and any solution must entail recognition of the inalienable right of the Palestinian people to self-determination and to the recovery of its legitimate national rights. It was questionable whether the current peace process would succeed if it was designed more to normalize relations between Israel and the Arab countries and to legitimize the occupation of the territories seized by force than to restore the rights of the Palestinian people in accordance with United Nations resolutions. A conference at which the Palestinians were deprived of the right to choose their own representatives could hardly be successful.

62. Human rights issues were often used selectively and for political purposes. As a result of the efforts made by third world and socialist countries, the first machinery for supervising the implementation of human rights had been established. If many countries had subsequently displayed misgivings with regard to the procedures developed, that was because practice had shown that, in the context of the East-West conflict, human rights issues had become a weapon directed against certain regimes on account of their political colour and applied in a manner which gave precedence to individual rights over economic and collective rights, including the right to development.

63. The end of bipolarism should lead to the end of selective practices in the human rights field, although the new relationships might not benefit the third world. The recent war in the Gulf was a good example of selective practices: the United Nations had been used for military action against Iraq, but was not allowed to act in support of the Palestinians. Iraq was being disarmed, but Israel's arsenal remained intact. Also, attempts were being made to legitimize the right of intervention - for example, in favour of Turkey. Selectivity in the consideration of human rights issues derived from a truncated view of human rights in which there was a permanent dichotomy between civil and political rights on the one hand and economic, social and cultural rights on the other. An end could be put to such selectivity only by rehabilitating and consolidating such rights as economic rights and the rights to peace, development, and a healthy environment. For that, solidarity would be required. The implementation of the right to development would lead to a more willing acceptance of duties and responsibilities and would enhance the protection of individual human rights. The same truncated view of human rights designated the "economically backward" countries as potential violators of human rights. The argument that poverty should not be used to justify violations of human rights was highly commendable in itself if it was not accompanied by the underlying idea that the developing countries were sheltering behind the alibi presented by their underdevelopment in order to avoid compliance with human rights norms. Underdevelopment was a very real phenomenon. For example, over 1,000 million persons in the third world were living below the poverty line, many millions did not have access to primary health care or to safe drinking water, 150 million children were suffering from malnutrition, and 240 million children did not attend school. No regime, whatever its political model or level of development, could boast of a scrupulous respect for human rights. Some States had even based their wealth and development on the denial of the rights of other peoples and on the pillaging of their natural resources. There was also a tendency to denounce systematically the practices of certain countries while ignoring practices in countries that were considered to be too "civilized" to be accused of violating human rights. What could be considered for some to be serious violations were for others "mere mistakes" that could be corrected by the system, under which racist practices could be justified by freedom of expression and information; murders and other crimes by the right to self-defence, and prostitution and sexual tourism by freedom of action, even when it took place in areas inhabited by particularly poor people.

64. In short, much still had to be done to complete the human rights edifice and to move away from the confrontation which had characterized it thus far. The Conference called for 1993 would help to achieve that objective.

65. Mr. SABOIA said that although agenda item 6 attracted the most public attention and the broadest participation, it was not possible to escape a sense of frustration as, intervention after intervention, the annual tale of misery and deprivation was again unfolded, reminding all concerned of how much still remained to be done. The consideration of item 6 was one among several United Nations procedures for monitoring the implementation of human rights standards, being perhaps the most immediate and visible sounding-board for voicing complaints and, if the situation so warranted, inducing the Sub-Commission itself to echo the concerns expressed. It also provided the occasion for a very open general debate on the human rights situation in the world. The Sub-Commission's consideration of item 6 should therefore be kept roughly as it was, with only minor procedural changes to ensure balance and discipline. The Sub-Commission should not try to produce a "report" based on the information provided during the debate, since that would duplicate other procedures and create serious difficulties regarding the need to maintain a balanced approach and to check the reliability of sources of information.

66. There were undoubtedly some positive trends in the overall human rights situation in the world. The end of the cold war was opening the way for more cooperative approaches to international problems. The crucial question at the moment seemed to be that of who would be called upon to participate in the new dialogue and how the international agenda would be drafted. Several speakers had already warned against a restricted dialogue and agendas dictated by only one side of the world.

67. Positive trends in the human rights situation were to be found in the end of some regional conflicts or the beginning of their settlement, as in the cases of southern Africa, Central America and Cambodia. Internal conflicts and foreign occupation were major sources of human rights violations. Their end brought hope of improvement, although many other conditions had to be fulfilled to repair the damage inflicted. In that regard it was to be hoped that the developments taking place in the Middle East, particularly the prospect of holding an international conference with the participation of all interested parties, could at last bring a solution to the long-standing conflict, allowing the Palestinian people to exercise its legitimate right to self-determination and to the enjoyment of all civil, political, economic, social and cultural rights.

68. Another positive trend was the increasing acceptance of democratic and pluralist forms of government based on free and periodic elections. Peoples were largely realizing that democracy was preferable not only because it provided a framework in which individual freedoms could be practised and political leaders could be held accountable for their actions, but also because democratic institutions provided a framework for the peaceful solution of conflicts of interest which should, in the end, lead to a more just and efficient allocation of resources. However, there was no magic about democracy, and the process of building democratic institutions was a long and difficult one, especially in countries lacking the tradition and practice of political pluralism. That was compounded by the very difficult economic and social crisis which many of those countries were facing. Without increased international cooperation in the form of assistance and the creation of

international conditions for the resumption of long-term growth and development in the third world, the democratic impulse was not likely to survive social and economic upheaval.

69. Yet another positive sign was the progress achieved in the negotiations on the reduction and elimination of nuclear, chemical and other weapons of mass destruction. It was to be hoped that general disarmament would follow and that at least part of the enormous resources thus liberated could be employed to eliminate poverty, sickness and famine.

70. Although some of the new trends in international affairs allowed for hope, the human rights situation in many parts of the world was still very serious and grave violations continued to be committed in several countries. The settlement of internal or external conflicts or the overthrow of dictatorial regimes rarely meant an immediate amelioration in the observance of human rights. The aftermath of a conflict usually entailed additional suffering and deprivation. International cooperation was urgently needed to facilitate the transition, and technical assistance in the field of human rights could be of much help in avoiding the development of new grievances. Moreover, new sources of human rights violations and conflicts were appearing as a kind of "by-product" of the very developments which were so welcome. There was a resurgence of radical forms of nationalism, especially in Eastern Europe, where xenophobia and intolerance among different ethnic, linguistic or religious groups were a threat to peace and security. At a time when integration had become a necessary condition for improving efficiency, it was regrettable to see the more traditional tendencies of fragmentation prevail in that part of the world.

71. The tragic events in the Gulf that had begun with the Iraqi aggression against Kuwait had caused terrible destruction and were still a source of deep suffering. The situation of refugees in the area continued to provide grounds for concern. All refugees, irrespective of their ethnic origin or religious belief, should be adequately protected under the pertinent international conventions. Humanitarian principles must take precedence over geopolitical interests, and attacks against refugee camps could not be tolerated under any pretext. The fate of the civilian population in Iraq should not be neglected either. Although the Government of that country must comply with all United Nations resolutions concerning the payment of reparations, consideration must also be given to the adequate satisfaction of the needs of its civilian population.

72. As the twentieth century drew to its close, problems such as development, the environment and human rights had become ever more global and interdependent. It would not be possible to attain significant progress in any of those fields without an appropriate consideration of the others and increased international cooperation. An integrated approach was therefore essential for the correct understanding of the problems involved and in the search for viable solutions. The new political climate prevailing in international relations seemed to provide an opportunity for making a serious effort to solve the most pressing problems of the planet, especially the establishment of an economic order favourable to the right to development.

There was, however, a temptation to take advantage of an apparently uncontested supremacy to force nations to accept decisions in whose adoption they had had no part. History had shown how fragile any system built on such an outlook could be.

73. Mr. HELLER said that in the new international climate people throughout the world were alert to violations of human rights wherever they occurred. Such violations were harmful to the social cohesion of the countries where they took place and were also, on occasion, threats to regional and international peace and security. The progress currently being made in the search for negotiated solutions to a number of internal and regional problems, as well as the strengthening and, in some cases, re-establishment of democratic regimes were associated with attempts to ensure the full applicability of human rights. Definite progress had been made with regard to human rights in some countries, and greater importance was being given to them in general.

74. Nevertheless, the new international situation had not automatically led to an improvement in the human rights situation. On the contrary, the debate under agenda item 6 showed that the situation was very serious in some cases and uncertain in others. Violations of human rights arising out of the violation of international law, as in the Gulf in 1990 and in Palestine and other countries still today, were of current importance. Progress towards peace had not been matched by progress in international economic relations, and the profound crisis obtaining in developing countries was harming the democratization process and even the maintenance of their institutions. In addition, new trends having a negative impact on the implementation of human rights were emerging. The struggle against drug trafficking and other forms of crime had also led to violations of human rights and was a matter of concern in various societies. It would appear that the Commission on Human Rights and its Sub-Commission now had a great opportunity to fulfil their original mandates and that the humanitarian spirit could prevail over the politicization and selective approach that had been apparent in the last few years.

75. In the transitional era through which the world was passing, there was a greater acknowledgement of the fact that the full implementation of human rights, the rule of law and the democratization of society were closely linked. However, the link between democracy and human rights called for a number of comments.

76. The discussions of recent months had been of great value in demonstrating the link between international human rights action and the observance of principles of international law. It had often been argued that the principle of non-intervention could not be adduced in human rights questions for the purpose of preventing international monitoring of human rights; in the eyes of some, non-intervention was only a pretext used by some countries in order to avoid the consideration of their human rights situation in international forums. However, the problem was much more complex, particularly because of its political and selective character, as sufficiently illustrated by historical experience not only in the nineteenth but in the twentieth century.

77. Secondly, with regard to democratization it was worth noting that an effort was being made to establish a single concept valid for all societies, reduced merely to the holding of elections, without taking into account the various manifestations of self-determination by the peoples of developing countries. Real conditions were ignored in comparing societies, and it had to be remembered that democracy was acceptable depending on who held the reins of power. Democracy was born within a society and could not be imposed from without. International action acquired new meaning in human rights, but it could only be effected through cooperation and respect for the fundamental principles of international law, in particular, those of the self-determination of peoples and non-intervention. The most effective cases of international action had been those, not of intervention in internal conflicts, but of mediation by international entities, leading to an agreement between the parties.

78. Amnesty International had raised the question of cases of transitional Governments and how to deal with them. It was obvious that although some countries, which had been able to overcome one of the worst periods in their histories, had tried to reconcile the search for truth with the strengthening of their constitutional systems, in other cases government reform had taken place in very complex conditions, facing in a context of institutional weakness the challenges of development, political violence and the inheritance of a heavy burden of human rights violations. Those were realities that could not be ignored by international bodies, which faced the dilemma of whether to contribute to creating a climate conducive to the enjoyment of human rights or to condemn without appeal the most flagrant cases, without necessarily thereby bringing about a substantial improvement in the exercise of human rights.

79. The situation of human rights in El Salvador had preoccupied the international community for a decade. The General Assembly, the Commission and the Sub-Commission had come out in favour of a negotiated political solution of the internal conflict as an essential condition for the full restoration and effective enjoyment of human rights. With the active participation of the Secretary-General of the United Nations negotiations had begun in April 1990 between the Government of President Cristiani and the Farabundo Martí National Liberation Front, aimed at ending the conflict, promoting the democratization of the country, guaranteeing unrestricted respect for human rights and creating a favourable atmosphere for national reconciliation. The negotiations under way had made it possible to draft an agenda embracing various aspects, leading to the signing on 26 July 1990 of a partial human rights agreement which was now on the way to being implemented. It had to be stressed that the parties agreed in an unprecedented measure, that the responsibility for monitoring the accord would devolve upon a United Nations mission. Serious human rights violations had continued during a negotiating process that deserved broader support from the international community.

80. The United Nations had used varying approaches in the case of Guatemala, supporting constructive action by the Government when it had occurred but also indicating concern at the persistence of serious human rights violations.

81. The Government of Guatemala had continued to cooperate with the United Nations. The Expert, Mr. Tomuschat, had, in accordance with Commission on Human Rights resolution 1990/80, closely monitored the evolution of the situation in that country. The new Government of President Serrano had made a commitment to the people of Guatemala to guarantee the full enjoyment of human rights. Similarly, the door had been opened to negotiations with the aim of achieving national reconciliation. Particularly important was the round of talks brought about by the National Commission for Reconciliation between various sectors of Guatemalan society and the Unidad Revolucionaria Nacional Guatemalteca, in the presence of a representative of the Secretary-General of the United Nations. The agreements concluded in Mexico between the Government and the Unidad Revolucionaria Nacional Guatemalteca paved the way for the consolidation of an internal agreement, in which human rights were preponderant.

82. The international community should continue to encourage that process, the only one by which it was possible to satisfy the often frustrated aspiration of the Guatemalan people for peaceful coexistence in which human rights and fundamental freedoms would be effective.

83. In conclusion, he stressed that human rights were not a monopoly of the developing world. There had been new developments in Europe giving cause for concern, in particular the importance of safeguarding the human rights of migrant workers and refugees.

84. Mr. van BOVEN recalled that the Sub-Commission was both a policy body and an expert body. As the Under-Secretary-General for Human Rights had recognized in his introductory statement, the Sub-Commission made a contribution to shaping the United Nations human rights programme in concert with its parent bodies. At the same time, as an expert body it made its own distinct contribution. When it devoted a lot of time to human rights violations, it did so on explicit instructions received from the Economic and Social Council and the Commission: the very organs which, from time to time, criticized the Sub-Commission for so much involvement.

85. The Sub-Commission had three tasks to perform: to prepare for the use of the Commission a report containing information on violations of human rights and fundamental freedoms from all available sources; to bring to the attention of the Commission any situation which it had reasonable cause to believe revealed a consistent pattern of gross violations of human rights; and to carry out duties provided for in Economic and Social Council resolution 1503 (XLVIII).

86. In carrying out its work, the Sub-Commission was ably assisted by non-governmental organizations, from whom it was important to receive solid and reliable information and informed opinions.

87. With regard to the world human rights situation, there had been stimulating and challenging statements, inter alia, by Mrs. Warzazi and Mr. Khalifa. It had been noted that the principles of democracy had made headway, and that the rule of law, the multi-party system and the free market economy were important ingredients for the promotion and protection of human rights. He had no quarrel with that view, but he had two observations to make

on democracy. As the Secretary-General of the United Nations had said, in the framework of the Conference on European Security and Cooperation, while democracy was a necessary condition for the recognition of basic human rights, it was not in itself sufficient to ensure the actual enjoyment of those rights: indeed, genuine political democracy had little chance to survive and stability was bound to prove elusive without social justice. The Secretary-General had been right to stress the point: the documents of the Conference on European Security and Cooperation were strong on political freedoms but weak on social justice. Only minimal reference was made to the notion of economic, social and cultural rights.

88. Secondly, in some societies where there was democracy, it might be only a façade, with real power resting with non-democratic institutions, such as military or certain economic forces. In some countries there was also an almighty bureaucracy that remained in spite of changes of government and exercised the actual power. It was necessary to look at the realities and not only at the façade of a society.

89. As someone committed to the principles of the United Nations on human rights and humanitarian law, he was concerned in particular at the absence of any monitoring mechanisms in the war situation in the Gulf, especially since recourse to war had been authorized by the Security Council. Since the United Nations had an interest in seeing that the laws of war and basic humanitarian standards were respected in all armed conflicts, that applied a fortiori when the United Nations itself had authorized recourse to armed force. It had been noted that the media had been excluded from supervising or monitoring the situation and had only played a role in so far as they had been allowed to function by the parties involved in the war. It was important for the media to be able to look at human rights situations and the conduct of warfare, particularly in the absence of official mechanisms, to monitor to what extent basic humanitarian standards were being observed in time of war.

90. Although he could not reveal the details of the discussions of the Working Group on Communications, he had been struck by the extent to which human rights violations occurred in the context of racial, religious, ethnic and national conflicts. The question had arisen in the Working Group of whether adequate measures existed to cope with those violations. The traditional procedures, 1503 and others, were usually not effective in dealing with human rights violations in conflict situations. That problem, which was very important, would also have to be looked at under agenda item 18.

91. With regard to Mr. Khalifa's observation that the global human rights situation had deteriorated, he believed that more facts were needed to make such a judgement. Because more issues were coming to the Sub-Commission's attention, the human rights situation might seem to be getting worse; but that might only reflect the fact that in the past many human rights situations had escaped the Sub-Commission's attention.

92. Turning to the hazards of selection, he observed that every expert and every country was to a certain extent selective. Theoretically, the United Nations could not afford to be selective, but in practice it had been; however, it was better that the United Nations should deal with some specific situations, such as South Africa or human rights in the territories occupied

by Israel, than with no issues at all. Wherever political factors allowed the United Nations to act, it should act. That did not mean that there should not be an effort to avoid double standards and to apply uniform criteria, such as the notion that consistent patterns of gross violations of human rights should be dealt with as well as issues such as genocide, slavery, systematic racial or religious discrimination, war crimes and crimes against humanity all of which were considered as being part of jus cogens under international law.

93. As to whether the Sub-Commission should deal with countries or only with issues and themes, he considered that State accountability had to be stressed. However, there was a tendency to focus on smaller or weaker countries, and he therefore wondered why the permanent members of the Security Council should not be singled out. They, after all, had responsibility for upholding the purposes and principles of the Charter of the United Nations. With regard to the United Kingdom and France, which were, like his own country, part of the European Community, he would say that the treatment of foreigners - refugees, migrants and asylum seekers - by those countries including his own fell below adequate human rights and humanitarian standards and might constitute serious human rights violations. Human rights applied to foreigners as well as citizens. In the French "Declaration of the Rights of Man and of Citizens" of 1789, the rights of man were basic rights whereas the rights of the citizen referred to political rights and the rights of participation. So the notion that human rights basically applied to all had a certain history in which France had played an important role.

94. With regard to China, the Sub-Commission had received much information of concern regarding the large number of political prisoners, the suppression of the pro-democracy movement and its aftermath, cases of incommunicado detention and a high number of executions. At the same time, efforts were being made by the Chinese Government to start a human rights dialogue with other countries, and he hoped those efforts would continue; but he wished to state his concern about the policies and practices of China towards the people of Tibet, which had also been reported on by several non-governmental organizations.

95. He welcomed the recent positive developments in openness, political discussion and dialogue in the Soviet Union, but found it regrettable that violence, including armed force, had been used against the peoples of the Baltic States, in particular Lithuania and elsewhere in the country. Nevertheless, he welcomed the efforts being made to promote and strengthen human rights.

96. The United States of America was a special case because it had not ratified the major human rights instruments. As a result, many aspects of the human rights situation in the United States could not be discussed in the treaty bodies created for the purpose of a continuous dialogue. It was regrettable that a country now called the only super-Power had not ratified the major human rights conventions such as the Convention on the Elimination of Racial Discrimination, the International Covenants on Human Rights and the Inter-American Convention on Human Rights. He was concerned about the level of protection of economic and social rights in the United States, particularly the large number of homeless people; members of the Sub-Commission visiting

New York had been very much aware of that problem. The deterioration of the social rights of the poor and prison conditions, especially for blacks and Hispanics, fell below the standards prescribed by international instruments.

97. He welcomed the efforts by some non-governmental organizations to bring the right to housing to the Sub-Commission's attention. Document E/CN.4/Sub.2/1991/NGO/9 also discussed the question of evictions and the reasons given for them. Housing was a huge problem in the so-called rich countries as well as the poor ones; there were no fewer than 50,000 homeless in Greater London.

98. He had listened with great interest to the non-governmental organizations which had pleaded for the strengthening of United Nations monitoring of situations of great concern, including that in Iraq. For his part, he also wished to stress the duties of States to investigate, prosecute and bring to trial those responsible for serious human rights violations. One of the major problems of immediate concern in El Salvador and Guatemala seemed to be that certain military and paramilitary groups received official protection and that a situation of impunity therefore prevailed. None of the crimes committed had been duly investigated. He would return to that issue under agenda item 10 as well as to the cases of lengthy detention and imprisonment without acknowledgement by the authorities.

99. He stressed the importance attached to the preventive approach to human rights taken by the Human Rights Committee when it had commented on the right to life: "States have the supreme duty to prevent wars, acts of genocide and other acts of mass violence causing arbitrary loss of life" and continuing, "States parties should take measures not only to prevent and punish deprivation of life by criminal acts but also to prevent arbitrary killing by their own security forces ... States parties should also take specific effective measures to prevent the disappearance of individuals, something which unfortunately has become all too frequent and leads too often to arbitrary deprivation of life" (A/37/40, Annex V, paras. 2, 3 and 4).

100. With regard to the issue of humanitarian intervention, he shared the doubts and misgivings that had been expressed about the practice of international intervention, particularly when resorted to by individual States, which had often used it merely as a means to expand their influence. Nevertheless, there were situations where the international community could not ignore human rights violations when they occurred on a large scale and when they were of a genocidal nature. The United Nations should be entrusted to act in those situations. But there was also the question of political will. It had to be asked what the situation would be if the United Nations did not act. A choice had to be made between the sovereignty of the nation State and the fate of tens of thousands of human beings: when people applied certain principles too rigidly they might themselves become prisoners of their own principles.

The meeting rose at 1.05 p.m.